

Message Text

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ACTION L-02

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RSC-01 JUSE-00 CIAE-00 DODE-00 PM-03 H-02 INR-07

NSAE-00 NSC-05 PA-02 PRS-01 SP-02 SS-15 USIA-15 /118 W

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TO SECSTATE WASHDC 7220

INFO AMEMBASSY THE HAGUE

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E.O. 11652: N/A

TAGS: UN, ICJ

SUBJ: UNGA LEGAL COMITE: REVIEW OF ROLE OF ICJ

1. SUMMARY: DRAFT RES (A/C.6/L.987REV.2) ON SUBJECT
ITEM ADOPTED NOV 5 BY CONSENSUS IN LEGAL COMITE, AFTER
WHICH NUMEROUS DELS, INCLUDING USDEL, MADE STATEMENTS
FOR THE RECORD. END SUMMARY.

2. AFTER DRAFT RES ADOPTED BY CONSENSUS, CHAIR OPENED
FLOOR TO DELS WHO WISHED MAKE STATEMENTS.

3. FRANCE STATED IT DID NOT WISH BREAK CONSENSUS, THOUGH
HAD THERE BEEN VOTE FRANCE WOULD HAVE ABSTAINED. SIMILAR
STATEMENTS MADE BY CUBA, INDONESIA, AND ECUADOR (DIFFICULTY
WITH OPERATIVE PARAS 1 AND 2), TURKEY AND CHILE (DIFFICULTY
WITH PREAMBULAR PARA 8).

4. USSR STATED: (A) USSR HAS BEEN OPPOSED TO REVIEW OF
ROLE OF ICJ ITEM; (B) USSR VIEWS DRAFT RES AS PUTTING
END TO GA CONSIDERATION OF ITEM--THOUGH THEORETICALLY
GA COULD RECONSIDER TIEM UNDER ARTICLE 10 OF UN CHARTER;
(C) RE PREAMBULAR PARA 8, USSR HOLDS VIEW RESOLUTIONS
AND DECLARATIONS THEMSELVES ARE NOT SOURCES OF LAW, AND
THIS CAN BEE SEEN FROM ARTICLE 38 OF ICJ STATUTE; AND
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(D) IN USSR VIEW OPERATIVE PARA 1 DOES NOT PREDETERMINE

WHETHER ANY COUNTRY WILL ACCEPT COMPULSORY JURISDICTION OF ICJ, SINCE ANY SUCH PREDETERMINATION WOULD VIOLATE SOVEREIGN RIGHTS OF A STATE. USSR NOTED THAT IF DRAFT RES HAD BEEN VOTED ON, IT WOULD HAVE ABSTAINED ON PREAMBULAR PARA 8; AND WERE IT NOT FOR DESIRE FOR CONSENSUS, USSR WOULD HAVE TABLED AMENDMENTS TO OPERATIVE PARAS 2, 3 AND 5.

5. ISRAELI DEL (ROSENNE) RECALLED EARLIER MEXICAN DEL STATEMENT THAT ITS ORIGINAL AMENDMENT (A/C.6/L.989) TO DRAFT RES INVOLVED NO INTRODUCTION OF NEW ELEMENTS INTO ARTICLE 38 OF ICJ STATUTE, AND EXPRESSED ITS APPRECIATION THAT THE COMPROMISE RESULT, PREAMBULAR PARA 8, FULLY REFLECTED THIS VIEW. ROSENNE CONCLUDED THAT IT WAS WITH THIS UNDERSTANDING THAT ISRAELI DEL HAD AGREED IN THE CONSENSUS. BRAZILIAN DEL MADE SIMILAR INTERVENTION SAYING ICJ CAN APPLY LAW ONLY AS DESCRIBED IN ARTICLE 38 OF ITS STATUTE.

6. UK DEL WOULD HAVE PREFERRED STRONGER RES, BUT IN INTEREST WIDEST ACCEPTANCE WAS ABLE ACCEPT PRESENT TEXT. UK DEL STATED THAT IT DOES NOT ACCEPT THAT GA RESOLUTIONS AND DECLARATIONS DEVELOP INTERNATIONAL LAW, BUT DOES ACCEPT THAT THEY CAN SERVE AS A SOURCE REFLECTING SUCH DEVELOPMENTS. IN UK VIEW, LATTER CONCEPT IS REFLECTED IN PREAMBULAR PARA 8.

7. USDEL JOINED OTHERS IN EXPRESSING PLEASURE THAT DRAFT RES ADOPTED BY CONSENSUS. USDEL WOULD HAVE PREFERRED STRONGER RES BUT IN INTEREST OF CONSENSUS COULD ACCEPT PRESENT TEXT. USDEL UNDERSTOOD PREAMBULAR PARA 2 AS AFFIRMING UTILITY OF PAST GA DISCUSSIONS ON ITEM AND UTILITY OF GA REVIEWING ISSUE, AS APPROPRIATE, IN FUTURE, AND NOTED THAT LATTER WAS ONE REASON US COULD PARTICIPATE IN CONSENSUS. WITH RESPECT PREAMBULAR PARA 8, USDEL ASSOCIATED ITSELF WITH VIEWS EXPRESSED BY ISRAELI AND BRAZILIAN DELS.

8. VENEZUELA BELIEVED A GA RES SHOULD NOT SEEK TO IMPOSE OBLIGATION ON STATES, I.E. TO CONSIDER ADHEREING UNCLASSIFIED

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TO ICJ COMPULSORY JURISDICTION. CAMEROON DEL NOTED THAT EVER SINCE NORTHERN CAMEROON DECISION, HIS GOVERNMENT HAS HAD RESERVATIONS ABOUT ICJ, AND IF RES HAD BEEN VOTED HE WOULD HAVE ABSTAINED. ALGERIAN DEL WAS PLEASED TO SEE A RESOLUTION WHICH FINALLY PUT ITEM TO REST. MALI DEL NOTED ITS PARTICIPATION IN CONSENSUS SHOULD NOT BE VIEWED AS BINDING MALI TO ICJ COMPULSORY JURISDICTION.

9. JAPANESE DEL NOTED THAT GA SHOULD NOT ISSUE DIRECTIVES TO ICJ, AND ACCORDINGLY FOUND FINAL TEXT OF PREAMBULAR PARA 8 ACCEPTABLE COMPROMISE. ALSO JAPANESE DEL NOTED THAT IT ATTACHED GREAT IMPORTANCE TO PREAMBULAR PARA 2.

10. MOROCCAN DEL NOTED THAT HIS GOVT HAS PROPOSED TO SPAIN THAT SPANISH SHARA ISSUE BE TAKEN TO ICJ, AND FAILING SPANISH CONCURRENCE, MOROCCAN GOVT PREPARED ASK SECURITY COUNCIL TO REQUEST ICJ ADVISORY OPINION. SPANISH DEL, IN RIGHT OF REPLY, NOTED SPANISH SAHARA ON COMITE 4 AGENDA AND EXPRESSED VIEW IT, THEREFORE, NOT APPROPRIATE TO DISCUSS ITEM IN COMITE 6.
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